

Message

From: Llamozas, Emilio [Llamozas.Emilio@epa.gov]
Sent: 8/27/2020 12:44:08 PM
To: Matthew Culpo [MCULPO@helenamt.gov]; Garcia, Al [garcia.al@epa.gov]; Hanson, Robyn [Hanson.Robyn@epa.gov]
CC: Mark Fitzwater [mfitzwater@helenamt.gov]; Phil Hauck [PHAUCK@helenamt.gov]; Thomas Jodoin [TJODOIN@helenamt.gov]
Subject: RE: City of Helena: Yesterday's LOV Conference with EPA and Resulting List of Deliverables - COH Response to Deliverables 4 and 5
Attachments: IU Inventory Procedures August 2020 response to EPA comments.docx

Hi Matt,

Thanks for sending the City's Industrial Waste Inventory procedure (Procedures) and for considering the EPA recommendations. Ultimately, it is the City's responsibility to choose the frequency for evaluating new businesses to identify and characterize industrial users as required by the pretreatment regulations. Thank you for relaying your decision to perform semi-annual evaluations.

I noticed that there were still tracked changes in the attached document. Is the City planning to accept the tracked changes in the document? Please send us the final Procedures once the tracked changes are addressed.

In the August 18, 2020 email, we noted that these Procedures differ from the City's industrial waste survey procedure that was provided to EPA during the 2017 audit (for reference, this procedure was provided back to the City by Al Garcia on July 23, 2020 via email). Is the 2017 procedure no longer in use and replaced by the July 2020 submission?

EPA is in agreement with the timelines for the sending out the industrial waste survey forms and reviewing the forms. However, EPA would like any inspections to occur by April 1, 2021 instead of June 1, 2021. Please let us know the City's thoughts on this proposed timeline for inspections.

Please let me know if you have any questions.

Thanks,

Emilio Llamozas
(303) 312-6407 phone
To report an environmental violation, please visit EPA's website at
<http://www.epa.gov/compliance/complaints/index.html>

From: Matthew Culpo <MCULPO@helenamt.gov>
Sent: Monday, August 24, 2020 2:55 PM
To: Llamozas, Emilio <Llamozas.Emilio@epa.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>
Cc: Mark Fitzwater <mfitzwater@helenamt.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Thomas Jodoin <TJODOIN@helenamt.gov>
Subject: RE: City of Helena: Yesterday's LOV Conference with EPA and Resulting List of Deliverables - COH Response to Deliverables 4 and 5

Emilio,

I appreciate your comments and suggestions in your response and will accept them with the exception of the new business list review frequency. The current City process for reviewing building permit applications for new and existing businesses or changes in use, includes routing to Departments and Divisions including the Utility and Engineering Divisions. These division routings and reviews check the application for industrial processes, and if proposed, the Pre-

treatment Program will review the application for industrial user permitting needs. This process allows us to see all new business that need water and/or sewer service. For these reasons, I believe annually is sufficient but have increased that frequency to semi-annually based on your comment.

Regards,

Matt Culpo, P.E.
Civil Engineer
City of Helena
316 North Park Avenue
City-County Building, Room 413
Ph: 406-447-8073
Cell: 406-422-6147
mculpo@helenamt.gov

From: Llamozas, Emilio <Llamozas.Emilio@epa.gov>

Sent: Tuesday, August 18, 2020 10:49 AM

To: Matthew Culpo <MCULPO@helenamt.gov>; Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>

Cc: Mark Fitzwater <mfitzwater@helenamt.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Thomas Jodoin <TJODOIN@helenamt.gov>

Subject: RE: City of Helena: Yesterday's LOV Conference with EPA and Resulting List of Deliverables - COH Response to Deliverables 4 and 5

Hi Matt,

Thanks for sending the City's deliverables for items 4 and 5.

Attached are EPA comments on the City's July 2020 Industrial User Inventory and Characterization Procedures. These Procedures are still missing the requirement to notify Industrial Users of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the Clean Water Act and subtitles C and D of the Resource Conservation and Recovery Act. For more information on this requirement, please consult the 2017 audit, which identified that the City's IU inventory procedure needs to include a notification component for IUs in the service area; this can be accomplished by a variety of methods, including but not limited to, follow up letters to inspections or survey reviews, providing a copy of the inspection report to the IU, etc.

Additionally, we noted that these Procedures differ from the City's industrial waste survey procedure that was provided to EPA during the 2017 audit (for reference, this procedure was provided back to the City by Al Garcia on July 23, 2020 via email). Is the 2017 procedure no longer in use and replaced by the July 2020 submission?

We are also providing comments on the Industrial Waste Survey form. Please see the attached document. Furthermore, we are providing an additional example of an Industrial Waste Survey Form used by the City of Bozeman. The City of Helena should review this example form and consider whether it would like to use similar questions in its industrial waste survey form.

EPA is in agreement with the timelines for the sending out the industrial waste survey forms and reviewing the forms. However, EPA would like any inspections to occur by April 1, 2021 instead of June 1, 2021.

Please let me know if you have any questions.

Thanks,

Emilio Llamozas

(303) 312-6407 phone

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<http://www.epa.gov/compliance/complaints/index.html>

From: Matthew Culpo <MCULPO@helenamt.gov>

Sent: Thursday, July 30, 2020 10:51 AM

To: Garcia, Al <garcia.al@epa.gov>; Hanson, Robyn <Hanson.Robyn@epa.gov>; Llamozas, Emilio

<Llamozas.Emilio@epa.gov>

Cc: Mark Fitzwater <mfitzwater@helenamt.gov>; Phil Hauck <PHAUCK@helenamt.gov>; Thomas Jodoin

<TJODOIN@helenamt.gov>

Subject: City of Helena: Yesterday's LOV Conference with EPA and Resulting List of Deliverables - COH Response to Deliverables 4 and 5

Al,

This email and attachments are intended to respond to deliverables 4 and 5 in the list provided below by EPA. Attached, please find the Industrial User Inventory and Characterization Procedures as requested. These procedures address existing and new businesses. The procedures are effective immediately. Additionally, we have screened a list of 1,277 new businesses started in the City of Helena from September 2017 to July 2020 for potential industrial users (attached). The screened list consists of 86 potential industrial users. This City of Helena will send each potential industrial user the Industrial Waste Survey (attached) by October 1, 2020 and request return service by November 1, 2020. The City of Helena will complete review of the surveys and, if needed, inspections by June 1, 2021.

Please let me know if you approve, or have any comments or suggestions related to our procedures and planned timeline for the survey and updates to our Industrial User Inventory.

Thank you,

Matt Culpo, P.E.

Civil Engineer

City of Helena

316 North Park Avenue

City-County Building, Room 413

Ph: 406-447-8073

Cell: 406-422-6147

mculpo@helenamt.gov

From: Hanson, Robyn <Hanson.Robyn@epa.gov>

Sent: Friday, July 24, 2020 3:39 PM

To: Phil Hauck <PHAUCK@helenamt.gov>; Matthew Culpo <MCULPO@helenamt.gov>; Mark Fitzwater

<mfitzwater@helenamt.gov>; Ryan Leland <RLELAND@helenamt.gov>

Cc: Thomas Jodoin <TJODOIN@helenamt.gov>; Llamozas, Emilio <Llamozas.Emilio@epa.gov>; Garcia, Al

<garcia.al@epa.gov>

Subject: City of Helena: Yesterday's LOV Conference with EPA and Resulting List of Deliverables

Phil, Ryan, Matt, and Mark:

Thank you once again for participating in a videoconference with the EPA yesterday regarding the City of Helena's pretreatment program. We look forward to the City's continued engagement as we pursue settlement discussions regarding a potential enforcement action under the Clean Water Act (CWA) for the violations that we alleged in our Letter of Violation, dated May 14, 2020.

As I noted yesterday after receiving your permission to proceed without the presence of the City's Attorney, our primary focus at this time is reaching agreement on a set of compliance terms to be drafted into a proposed administrative Agreement on Consent, or "AOC." See Section 309(a) of the CWA 33 U.S.C. § 1319(a). At a later point in our settlement discussions, we also intend to engage with the City of Helena regarding an appropriate administrative penalty as set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

For now, I am following up on my commitment to share with you the list of deliverables, in the table below, that we understand to have come out of yesterday's conference. Please let me know if you have anything to add to this list, or if you understood any commitments differently.

| Deliverables | Corresponding LOV Violation # (from 7/8/20 EPA letter) | Due Date |
|--|--|--|
| City of Helena: | | |
| 1. Submit an updated ordinance. | #2 | September 1, 2020; City expresses it may be able to submit earlier. |
| 2. Propose an updated IGA (that addresses EPA's 7/8/20 comments) to Ft. Harrison for signature. | #3 | No set date commitment. City and EPA agree the City will propose the updated draft IGA "soon" so EPA can be available to join discussions if Ft. Harrison does not agree to sign. If this is still outstanding when we draft the AOC, that document will propose a date for completion of the City's proposal of the IGA. |
| 3. Reissue the modified DIP permit, addressing EPA's comments (to be provided by August 5, 2020). | #4 | By August 15, 2020. |
| 4. Provide a narrative explanation to EPA of the IU inventory and characterization procedures the City is implementing or planning to implement, for existing and new facilities, including a timeline for implementation and a description of how the City will update its IU inventory (of existing and new facilities) yearly. | #5 & #6 | By August 1, 2020. |
| 5. City will update its prior IU Inventory procedures governing notification of IUs (submitted to AI during 2017 Pretreatment Audit, which he sent back to the City on 7/23/20). | #7 | September 1, 2020 (EPA agreed to extend from the original 8/15 date requested). |
| 6. City to update the Sampling & Analysis Plan it provided to EPA (via AI Garcia) on 6/30/20 and resubmit to EPA for approval. The updates should ensure the plan provides for representative sampling, appropriate timing for the samples, calibration of pH meter with logs of the calibrations, and any other updates needed to address the Proposed Action in EPA's July 8, 2020 letter. | #8 & #9 | August 5, 2020. |

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|--|-----|---|
| 7. City to review its enforcement records on MRL's late report, including documented phone calls and provide those records to EPA if they exist. Alternatively, City will discuss with the City's Attorney taking enforcement response on the late report. | #9 | No set date commitment. As soon as possible. |
| 8. City to develop a procedure for receiving and analyzing self-monitoring reports from SIUs and following up with enforcement responses per the City's ERP. | #9 | Agree to do within timelines proposed in July 8, 2020 letter (p. 14), if not earlier. |
| 9. City to continue to strategize methods to recruit and budget a FTE designated to implement its PT Program. Phil and Al to discuss ideas about steps that could ensure qualified personnel implement the PT program. | #10 | No set date commitment. Phil will contact Al to set a time to talk. |
| EPA: | | |
| 1. Review the City's recently proposed draft Local Limits, as submitted via email to Al Garcia on 6/30, to ensure they are approvable. | #1 | No set date commitment. EPA acknowledges receipt of Helena's proposed Local Limits and has added the document to the queue of municipal proposals under review. |
| 2. Provide edits and comments on the City's recently provided draft DIP permit, including EPA's request for removal of the administrative extension language and language requiring samples to be "representative." | #4 | August 5, 2020 (City still plans to reissue by August 15 th) |
| 3. Al to discuss ideas with Phil about steps that could ensure qualified personnel implement the PT program; EPA to consider sharing advice based on what other similarly sized municipalities do. | #10 | No set date commitment. Phil will contact Al. |

Finally, I am CC'ing Mr. Jodoin to this communication. Mr. Jodoin, please do not hesitate to contact me directly if you want to discuss the EPA's claims in this matter or our proposed path forward in these ongoing settlement discussions, including any of the deliverables arising from the conference yesterday.

Regards,
Robyn

Robyn Hanson Emeson
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